

FILED  
CHARLOTTE, NC

MAY 22 2012

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA

U.S. DISTRICT COURT  
WESTERN DISTRICT OF NC

IN RE: MOTIONS FOR POST-CONVICTION RELIEF  
PURSUANT TO *United States v. Simmons*, 649 F. 3d 237 (4<sup>th</sup> Cir. 2011)

ORDER

3:12 MC 92

The following procedure shall be followed by agencies and attorneys in this district to assist the Court in resolving post-conviction motions pursuant *United States v. Simmons*, 649 F. 3d 237 (4<sup>th</sup> Cir. 2011). This procedure does not create any rights for defendants and does not apply to motions for relief on other grounds.

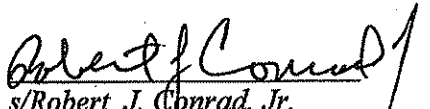
Pursuant to the provisions of the Criminal Justice Act, Title 18, U.S.C. §§ 3006 (a)(1) and (c), the Federal Defenders of the Western District of North Carolina (FDWNC) are hereby appointed to represent any defendant previously determined to have been entitled to appointment of counsel, or who is now indigent, to determine whether that defendant may qualify for post-conviction relief pursuant *United States v. Simmons*, 649 F. 3d 237 (4<sup>th</sup> Cir. 2011), and if so, to assist the defendant in obtaining such relief. This appointment is limited to cases affected, or potentially affected, by *United States v. Simmons* and, except upon motion of counsel and approval by this Court, will terminate upon a determination by appointed counsel that the defendant is not eligible for relief, or, if eligible for relief, upon exhaustion of the defendant's post-conviction remedies.


The United States Probation Office (USPO) for the Western District of North Carolina shall disclose Presentence Investigation Reports (PSR's) that are not available in ECF to the FDWNC for the purpose of determining eligibility for relief, and for determining whether a conflict of interest precludes the FDWNC from representing the defendant. Should the FDWNC determine that there is a prohibitive conflict of interest precluding representation, the FDWNC

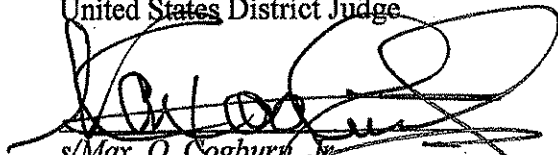
will assign the case to a member of the Criminal Justice Act panel in this district and provide the PSR's to new counsel. The USPO shall also provide copies of the PSR's to the United States Attorney's Office (USAO).

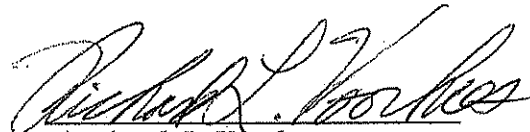
Priority shall be given to defendants potentially eligible for immediate release.

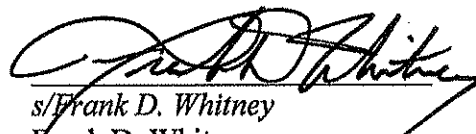
IT IS SO ORDERED, this, the 1<sup>st</sup> day of May, 2012.


  
s/Robert J. Conrad, Jr.  
Robert J. Conrad, Jr., Chief  
United States District Court Judge

  
s/Martin Reidinger  
Martin Reidinger  
United States District Judge

  
s/Max O. Cogburn, Jr.  
Max O Cogburn, Jr.  
United States District Judge

  
s/Richard L. Voorhees  
Richard L. Voorhees  
United States District Judge

  
s/Frank D. Whitney  
Frank D. Whitney  
United States District Judge

  
s/Graham C. Mullen  
Graham C. Mullen, Senior  
United States District Judge